

RESOLUTION NO. 2525

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ACCEPTING THE WAIVER INSTRUMENT REQUIRED BY ORDINANCE 772 (RELATED TO REZONING OF 1014 E CANYON DRIVE).

WHEREAS, On October 8, 2009, the Common Council of the Town of Payson approved Ordinance 772 and the rezoning of real property located at 1014 E Canyon Drive; and

WHEREAS, Ordinance 772 required the owners of 1014 E Canyon Drive to execute a waiver of any potential claims against the Town under the Arizona Property Rights Protection Act; and

WHEREAS, On the 19th day of October, such waiver was presented to the Town of Payson and the Town desires to accept such waiver,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the wavier submitted by J. Fred & Alyce Hollobaugh, as required by Ordinance 772, is hereby accepted as presented.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2009, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

WHEN RECORDED, RETURN TO:
Silvia Smith, Town Clerk
Town of Payson
303 North Beeline Highway
Payson, Arizona 85541

CONSENT TO CONDITIONS OF REZONING AND WAIVER OF CLAIMS
FOR POSSIBLE DIMINUTION OF VALUE RESULTING FROM
TOWN OF PAYSON ORDINANCE 772

James F. & Alyce A. Hollobaugh, the Owner(s), own(s) the land referred to in this instrument as "the Property," which is particularly described in Exhibit A-1 attached hereto and also in Exhibit A attached to Payson Ordinance 772 * (the Rezoning Ordinance) and attached hereto and incorporated by this reference in this instrument. The Property is the subject of rezoning application number P-359-09, filed on behalf of the Owner(s), which the Payson Town Council approved with conditions on September 24, 2009 by the adoption of the Rezoning Ordinance.

The Owner(s) on behalf of its self, its agents, successors, transferees, and assigns, hereby agrees and consents to all of the conditions imposed by the Payson Town Council in conjunction with the approval of the Rezoning Ordinance and waive any right to compensation for diminution in value pursuant to Arizona Revised Statutes §12-1134 that may now or in the future exist as a result of the approval of the Rezoning Ordinance. The Owner(s) also consents to the recording of this document in the office of the Gila County Recorder, to give notice of this instrument and its effects to successors in interest of the Property, who shall also be bound by it.

Dated this 5 day of October, 2009. Dated this 5 day of OCTOBER, 2009.

By James F. Hollobaugh
James F. Hollobaugh, the Owner

By Alyce A. Hollobaugh
Alyce A. Hollobaugh, the Owner

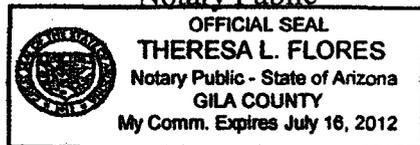
* See Exhibit "A-2"

STATE OF ARIZONA)
) ss.
County of Gila)

The foregoing Consent and Waiver was acknowledged before me this 5 day of October, 2009, by James F. & Alyce A. Hollobaugh, the Owners.

My Commission Expires:
July 16, 2012

Theresa L. Flores
Notary Public





Acknowledgment by Individual

State of UTAH County of CACHE

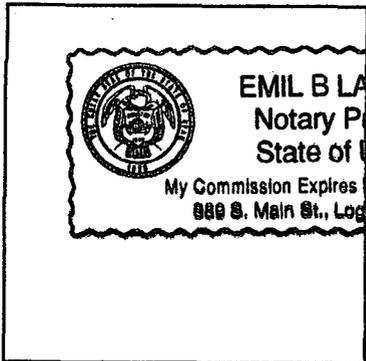
On this 8th day of October, 2009, before me, EMIL B. LAVAKI
Name of Notary Public

the undersigned Notary Public, personally appeared
Alyce A. Hollibaugh
Name of Signer(s)

- Proved to me on the oath of _____
- Personally known to me
- Proved to me on the basis of satisfactory evidence AZ DL#4599166487 ex 07/10/2011
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

[Signature]
(Signature of Notary Public)

My commission expires November 01, 2010

Optional

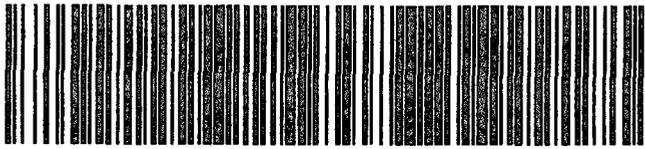
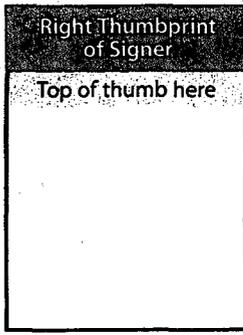
Though the information in this section is not required by law, it may prevent fraudulent removal and reattachment of this form to another document and could prove valuable to persons relying on the document.

Description of Attached Document

Type or Title of Document
Consent to conditions of re-zoning; waiver of claims for possible Diminution of value

Document Date October 8, 2009 11 Number of Pages
resulting from Town of Payson Ordinance #77

Signer(s) Other Than Named Above
James F. Hollibaugh



Scanner Enabled Stores should scan this form
Manual Submission Route to Deposit Operations

DSG5350 (9-07 111677)

FO01-00000DSG5350-01

EXHIBIT A-1

P-359-09 1014 E. Canyon Drive
302-23-015R

LEGAL DESCRIPTION

POR PCL C ROS 851;POR SW4 SW4 SEC 35 T11N R10E;COMM SW COR SEC 35 TH S89D45'48 E 432.91';TH N0D1'29 E 50' POB;TH CONT N0D1'29 E 406 .53';TH S89D44'38 E 197.13';TH S0D1'29 W 406.56';TH N89D45'48 W 197.13' POB, TOWN OF PAYSON, GILA COUNTY, ARIZONA=1.84 AC M/L (OUT OF 302-23-015P) (AKA PCL C ROS 851)

EXHIBIT A-2

ORDINANCE NO. 772

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE OFFICIAL ZONING MAP FOR THE TOWN OF PAYSON, ORDINANCE NO. 466 AND THE ZONING CODE FOR THE TOWN OF PAYSON BY REZONING CERTAIN REAL PROPERTY GENERALLY LOCATED AT 1014 EAST CANYON DRIVE, BEING GILA COUNTY ASSESSOR'S PARCEL NUMBER 302-23-015R, AS MORE PARTICULARLY DESCRIBED ON EXHIBIT A ATTACHED HERETO, FROM R1-90 TO R1-35. (1014 E CANYON DRIVE REZONING)

WHEREAS, the Town of Payson from time to time amends its Official Zoning Map and Official Zoning Code for the purpose of accommodating zoning changes; and

WHEREAS, Application No. P-359-09 to amend the Official Zoning Map and Official Zoning Code has been made by J. Fred & Alyce Hollobaugh, property owners, to the Planning and Zoning Commission and the Town Council; and

WHEREAS, the Planning and Zoning Commission held a public hearing on August 10, 2009, considered the issues, and made recommendation on Application No. P-359-09 to the Town Council; and

WHEREAS, the Town Council held a public hearing on September 10, 2009, in regard to said Application No. P-359-09 and has considered the issues relating thereto,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AS FOLLOWS:

Section 1. Ordinance No. 466 of the Town of Payson, the Official Zoning Map for the Town of Payson and the Zoning Code for the Town of Payson be and each is hereby amended to establish a zoning district of R1-35 for that portion of certain real property located at 1014 East Canyon Drive, Gila County Assessor's Parcel Number 302-23-015R, more particularly described on Exhibit A attached hereto and made a part hereof by this reference (the "Property").

Section 2. That the requested rezoning and the use and density of the Property as proposed by Application No. P-359-09 are hereby made contingent upon those conditions set forth in Section 3 below, and are found to be consistent with the General Plan of the Town of Payson, as required by A.R.S. § 9-462.01(F).

Section 3. The foregoing change in zoning shall be and are hereby specifically made contingent upon and conditional upon each of the following:

- A. Prior to application for a minor land division, separate public water service shall be provided to each of the existing dwelling units.
- B. Prior to application for a minor land division, each parcel shall have a separate waste disposal system approved by the Gila County Health Department or the Northern

2nd Reading and Public Hearing

SEP 24 2009 G.5

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american legend*

Gila County Sanitary District.

- C. If any of the conditions listed in this Section 3 cannot be met or the applicant has not recorded an approved minor land division survey map within two (2) years of the approval date of the zoning change, then the R1-35 zoning may revert to the original R1-90 zoning, by Council action.

Section 4. In addition to the provisions in Sections 5 and 6, hereunder, this ordinance shall not become effective until the Town files with the Gila County Recorder instrument(s) (in a form acceptable to the Town Attorney), executed by J. Fred & Alyce Hollobaugh and any other party having any title interest in the Property, that waives any potential claims against the Town under the Arizona Property Rights Protection Act (A.R.S. § 12-1131 et seq., and specifically A.R.S. § 12-1134) resulting from changes in the land use laws that apply to the Property as a result of the Town's adoption of this ordinance. If this waiver instrument is not executed and provided to the Town for recording within 7 calendar days after the motion approving this ordinance, this ordinance shall be void and of no force and effect.

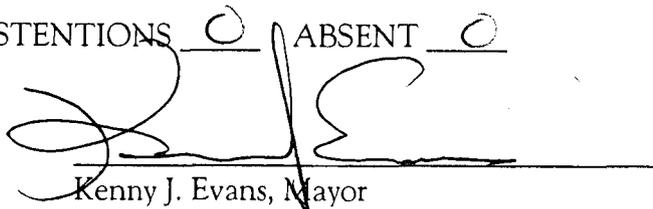
Section 5. Pursuant to A.R.S. §19-142 and §30.54 of the Code of the Town of Payson, this ordinance if not otherwise void pursuant to Section 4 hereinabove, shall not become operative until 30 days after its passage.

Section 6. A protest (pursuant to A.R.S. §9-462.04(H)) has been filed. The provisions of this Ordinance 742 shall only become effective upon a favorable vote of three-fourths of all members of the Town Council.

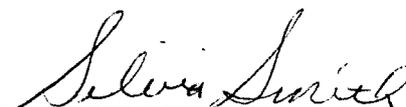
Section 7. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this 24th day of September, 2009, by the following vote:

AYES 7 NOES 0 ABSTENTIONS 0 ABSENT 0


Kenny J. Evans, Mayor

ATTEST:


Silvia Smith, Town Clerk

APPROVED AS TO FORM:


Samuel I. Streichman, Town Attorney

EXHIBIT A TO ORDINANCE 772

TAX PARCEL 302-23-015R

Legal Description: POR PCL C ROS 851;POR SW4 SW4 SEC 35 T11N R10E;COMM SW COR SEC 35 TH S89D45'48 E 432.91';TH N0D1'29 E 50' POB;TH CONT N0D1'29 E 406 .53';TH S89D44'38 E 197.13';TH S0D1'29 W 406.56';TH N89D45'48 W 197.13' POB;=1.84 AC M/L (OUT OF 302-23-015P) (AKA PCL C ROS 851)